**HZPC GROWER AGREEMENT**

This Grower Agreement sets forth the terms between HZPC Americas Corp. and Grower for use of potatoes for the production of fresh and processed potatoes. Grower accepts the Terms and Conditions of this Agreement as a prerequisite to the limited, non-exclusive, non-transferable license provided herein to purchase and plant HZPC potatoes (herein “HZPC Seed Potatoes”).

I, the undersigned Grower or authorized representative of the Grower, acknowledge that I have read this Agreement and understand and acknowledge that the terms and conditions hereof are legally binding on me and/or the Grower I represent, and all individuals and entities that will plant and grow HZPC Seed Potatoes on behalf of me and/or the Grower.

**Grower Signature:**  **Date:**

Printed Name:

Title (if not an individual):

**Grower Information:**

Name: Farm Business:

Address: Address:

Phone: Phone:

E-mail: E-mail:

Last 4 digits of SSN: Last 4 digits of Tax ID:

Varietal names of HZPC Seed Potatoes to be purchased this year: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Grower Estimate of total planted HZPC Seed Potatoes acres this year:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Acres

**Potato Seed Supplier Information**

Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Phone: \_\_

**Terms and Conditions**

1. Limited license to Purchase. This Agreement and the limited license provided herein only apply to HZPC Seed Potatoes purchased from authorized retailers in the United States and Canada. Grower shall not plant in the United States or Canada HZPC Seed Potatoes that has been purchased or otherwise obtained in any other country or from any source other than an authorized retailer.
2. For Fresh or Processed Potatoes Only. This Limited License of this Agreement permits Grower to sell potatoes produced from HZPC Seed Potatoes planted during the Term of this Agreement **only (i) for fresh or processed purposes. Grower shall not replant potato seed harvested from HZPC Seed Potatoes** **planted by Grower either within or outside the United States or Canada. Grower shall not plant HZPC Seed Potatoes** **for seed production or for purposes of research. Grower shall not sell or transfer seed or any propagation material or plant parts derived HZPC Seed Potatoes** **for use as seed or for propagation.** Seed potato production of to HZPC Seed Potatoes is only authorized if the seed production is under contract with a licensee authorized by HZPC.
3. Enforcement. During the term of this Agreement and for a period of five (5) years thereafter, Grower hereby grants HZPC and representatives of HZPC the right to enter upon property being farmed by Grower or any affiliated persons, to collect samples of potato crops, crop residue, and potato seeds from such property, and to inspect all records, receipts, or other documents relating to the purchase, planting, harvest, storage, and transfer to HZPC Seed Potatoes and the potato crop produced from to HZPC Seed Potatoes including but not limited to inspecting Summary Acreage History Report, Producer Farm Data Report, Form 578, aerial photographs, Risk Management Agency claim documentation, and receipts for HZPC potatoes.
4. Limited License. Within this limited license, the parties agree that IPR B.V. is the owner of all right, interest and title of the HZPC Seed Potatoes and has previously granted HZPC an exclusive license to the HZPC Seed Potatoes in Canada and the United States. IPR B.V. retains sole and exclusive ownership of all intellectual property, including patents, Plant Breeders Rights(“PBR”) and Plant Variety Protection (“PVP”) rights that relate to HZPC Seed Potatoes, and nothing in this Agreement should be construed as transferring such ownership rights. HZPC hereby grants Grower a limited, non-exclusive, non-transferable license to purchase and plant in the United States and Canada HZPC Seed Potatoes subject to the terms and conditions of this Agreement.

1. Term and Termination. The term of this Agreement is one calendar year, beginning January 1, 2024 and terminating January 1, 2025 (“Term”). The licenses granted in this Agreement only apply to HZPC Seed Potatoes planted during the Term. Grower will need to sign a new Agreement each growing season regardless of when HZPC Seed Potatoes is purchased. HZPC may immediately terminate this Agreement and the licenses granted herein upon any violation or breach of this Agreement by Grower, and upon such termination Grower may be in violation of IPR B.V.’s patents, PBR and/or PVP rights and IPR B.V. may be entitled to patent, PBR or PVP infringement damages to the full extent authorized by 35 U.S.C. § 271 et. Seq or other applicable statutes and regulations. Grower agrees that IPR B.V. or HZPC may additionally or alternatively obtain an injunction to enforce this Agreement. Grower’s responsibilities under this Agreement shall survive termination of this Agreement for all HZPC Seed Potatoes purchased by Grower during the term of this Agreement. Grower acknowledges and agrees that the amount of loss or damages likely to be incurred by IPR B.V. or HZPC due to breach of this agreement by Grower is difficult to precisely estimate and the liquidated damages herein bear a reasonable relationship to and are not plainly or grossly disproportionate to actual damages and are not penalties.
2. Warranty Disclaimer. EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT AND TO THE EXTENT CONSISTENT WITH APPLICABLE LAW, HZPC POTATO SEED IS FURNISHED “AS IS” AND HZPC MAKE NO WARRANTIES, GUARANTEES, OR REPRESENTATIONS OF ANY KIND TO GROWER, ANY INTERVENING SELLER, OR ANY PURCHASER, EITHER EXPRESS OR IMPLIED, OR BY USAGE OF TRADE, STATUTORY OR OTHERWISE, WITH REGARD TO THE PRODUCT SOLD, INCLUDING, BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, USE, OR ELIGIBILITY OF THE PRODUCT FOR ANY PARTICULAR TRADE USAGE.

HZPC’s sole liability for any claim, loss, breach of warranties, breach of contract or tort shall be limited to repayment of the amount of purchase of the HZPC Seed Potatoes.

IN NO EVENT SHALL HZPC BE LIABLE TO GROWER OR ANY INTERVENING SELLER, OR ANY PURCHASER FOR LOST PROFITS OR OTHER SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES.

1. Use of Information. HZPC shall only use information submitted by Grower in this Agreement for the purposes of managing the sale and distribution of HZPC Potato Seed, enforcing this Agreement, and compliance with law. Grower hereby consents to use of Grower’s information for these purposes.
2. Notice. As a condition precedent to Grower or any other person with an interest in Grower’s crop asserting any claim, action, or dispute against HZPC, Grower must provide HZPC a written, prompt, and timely notice within sufficient time to allow an in-field inspection of the crop(s) about which any controversy, claim, action, or dispute is being asserted. The notice will be timely only if it is delivered fifteen (15) calendar days or less after Grower first observes the issue(s) regarding performance or non-performance of the HZPC Potato Seed. The notice shall include a statement setting forth the nature of the claim. Grower must deliver the notice to HZPC AMERICAS CORP., (HZPC) having a principal place of business of 19 Regis Duffy Drive Charlottetown, PE C1E 0K5 Canada.
3. Severability. In the event any provision of this Agreement is held invalid, illegal, or unenforceable, in whole or in part, the remaining provisions of this Agreement shall not be affected thereby and shall continue to be valid and enforceable and if, for any reason, a court finds that any provision of this Agreement is invalid, illegal or unenforceable as written or applied, but that by limiting such provision it would become valid, legal and enforceable, then such limitation shall be deemed to be incorporated into such provision, which shall be applied, construed and enforced as so limited.
4. Consents and Waivers. No approval, election or consent contemplated by this Agreement, nor any waiver of any provision of this Agreement shall be effective unless agreed to in writing by the party giving or making such approval, election or consent or against whom such waiver is sought to be enforced. No waiver of any default or breach hereunder, nor any delay or partial exercise of any right or remedy arising as a result of any such default or breach, shall constitute a waiver of any other default or breach whether similar or otherwise, nor shall it prevent or preclude the non-breaching party from exercising such right or remedy upon the occurrence of a subsequent default or breach.
5. Binding Nature. This Agreement shall be binding upon and inure to the benefit of the executing parties and their respective successors, assigns, heirs, executors and administrators.
6. Assignability. This Agreement shall not be assigned by Grower without the written consent of HZPC. Neither Grower's rights nor Grower's obligations may be transferred, assigned or delegated to any other person or entity without the prior consent in writing of HZPC.
7. Entire Agreement. This Agreement constitutes the entire understanding between the parties concerning the subject matter hereof. No other prior or contemporaneous representations, inducements, promises, or agreements, oral or otherwise, between the parties relating to the subject matter hereof and not embodied in this Agreement shall be of any force or effect. This Agreement shall not be modified except in a writing signed by all parties hereto.
8. Governing Law. This Agreement shall be governed by and interpreted and construed in accordance with the laws of the State of North Carolina, without regard, however, to choice of law principles. The parties, by their execution of this Agreement, submit to the jurisdiction of the courts of the State of North Carolina excluding jurisdiction over any claim that is required to be heard in a court within another jurisdiction.